DISCUSSIONS OF THE OECD TRANSFER PRICING GUIDELINES AND TAXATION OF EXTRACTIVES

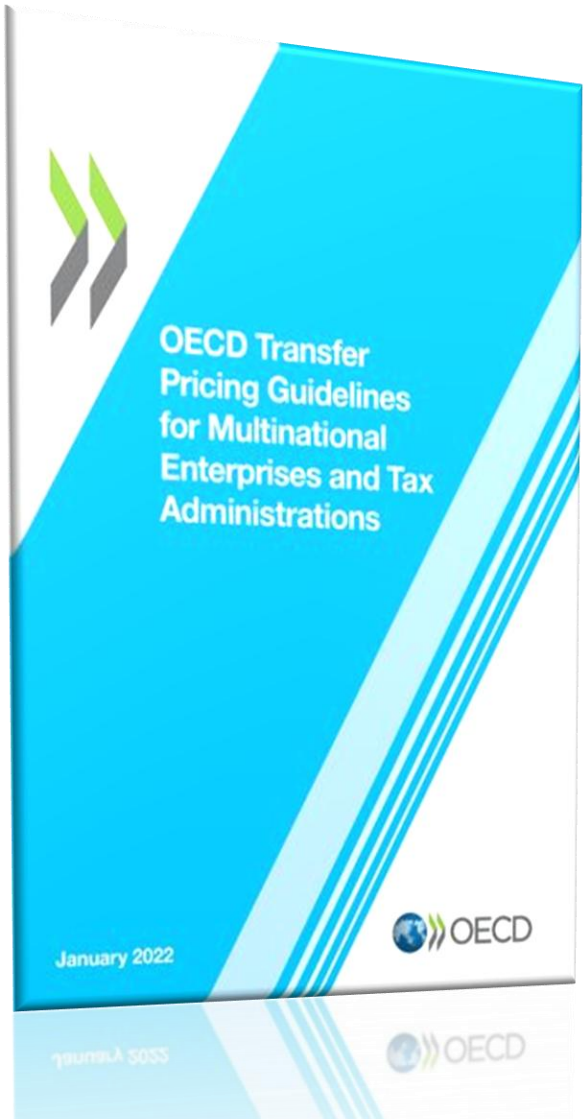
Regional Outreach Meeting on International Tax Developments
for
Europe and Central Asia
13 – 15 October 2026
OECD Multilateral Tax Centre (MTC), Vienna, Austria

Mr Andrew Viola, Senior Adviser, Transfer Pricing Unit, CTPA, OECD

BETTER POLICIES FOR BETTER LIVES

OECD TRANSFER PRICING GUIDELINES

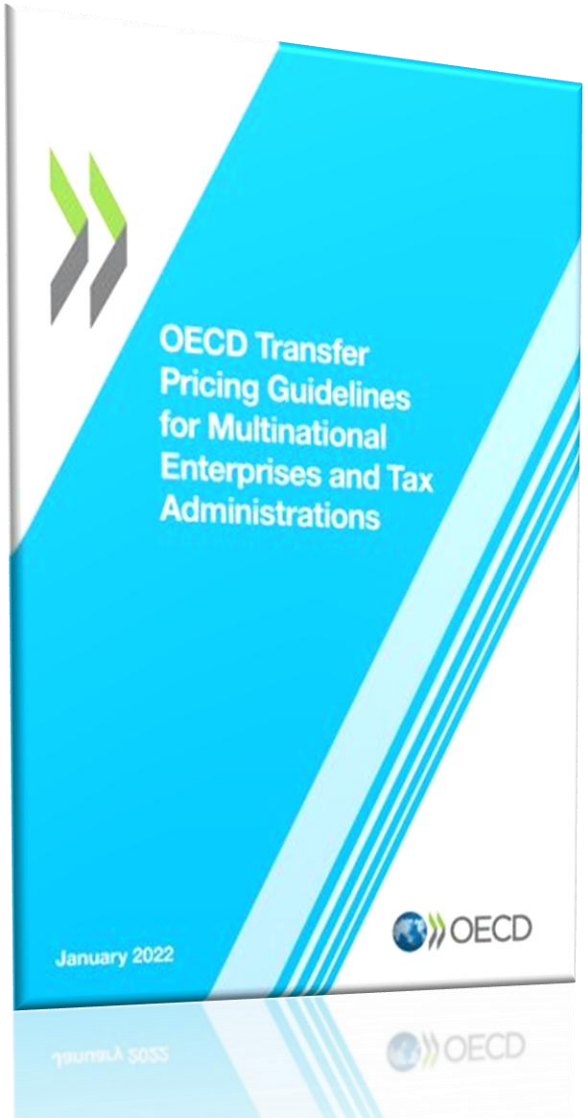
OECD Transfer Pricing Guidelines



- They include consensus-based **practical guidance** on the application of the ALP
- They are **updated periodically** to:
  - Clarify how the ALP should be applied
  - Address new issues and concerns in the transfer pricing area
- Considered **most influential** source of international guidance
- Their relevance and legal status **varies across countries**, e.g. countries can reproduce them in the domestic law, make reference to them, use them as interpretative guidance, or other

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The OECD Transfer Pricing Guidelines



- Chapter **I** - Guidance for applying the ALP
- Chapter **II** - Transfer Pricing Methods
- Chapter **III** - Comparability Analysis
- Chapter **IV** - Administrative approaches to avoiding & resolving TP disputes (MAP, APAs, etc.)
- Chapter **V** – Documentation
- Chapter **VI** – Intangibles
- **Chapter VII - Intra-Group Services**
- Chapter **VIII** - Cost Contribution Arrangements
- Chapter **IX** - Business Restructurings
- Chapter **X** – Financial Transactions (2020)

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CHAPTER VII AND CURRENT UPDATE

OVERVIEW OF CHAPTER VII

- **Chapter VII of the OECD Transfer Pricing Guidelines** contains special considerations for intra-groups services.
- Chapter VII OECD TPG focuses on establishing for transfer pricing purposes whether **services** have been **provided by one member of an MNE group to other members** of that group – **if so**, establishing **an arm's length price**.

- A member of an MNE group in need of a service may acquire it from independent enterprises, or from one or more associated enterprises in the same MNE group (i.e. intra-group), or may perform the service itself.
  - Chapter VII OECD TPG focuses on the **benefits test** in determining whether an intragroup service has been provided.
  - The question of whether the activity provides a **respective group member with economic or commercial value to enhance or maintain its business position**.

- Ensures that services are appropriately priced and associated costs appropriately allocated within the MNE group in accordance with the arm's length principle.

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Chapter VII, OECD TP Guidelines



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Rationale and objectives of the Chapter VII update

- The guidance on intra-group services was incorporated into the OECD TPG in 1996 focusing on back-office support services.
  - That guidance was further updated as part of the BEPS Project, which reviewed the guidance on shareholder activities and duplication, and introduced Section D on low value-adding intra-group services.
- The Report on BEPS Actions 8-10 resulted in a substantial update of Chapter I, which now includes extensive guidance on the foundations of any transfer pricing analysis. This guidance, however, has not been reflected in Chapter VII, therefore Chapter VII needs to be updated to account for these recent developments.
- The application of certain aspects of Chapter VII was leading to disputes such as the application of the benefit test, cost allocation and documentation requirements.
- Additional guidance to account for new business models was required.

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Public consultation overview

- Revised Chapter VII draft was released for public consultation on 3 June 2026 - **here**
- Comments from the public consultation closed 22 July 2026.
- Comments were published on OECD website on 30 August 2026 – **here**

- 141 submissions predominantly from Europe and North America, but also contributions from Asia, Africa and LATAM total roughly 1500 pages.
- The commentors varied between business, accounting firms, consultancy firms, country-based organisations and civil society (BEPS Monitoring Group).

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Public consultation overview - Comments

- Overall commentors were positive of the revised Chapter VII draft, improvements include:
  - Reinforcing that the benefit test is part of the accurate delineation of the transaction
  - Additional guidance on “expected benefit”
  - Concept of that the benefit test and pricing are two separate tests as outlined in paragraph 7.19 of the public consultation document.
  - Additional guidance on the allocation of costs through allocation keys, pass-through costs and the formulation of the cost base
  - Examples enhance the clarity and certainty of Chapter VII.

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Public consultation overview - Comments

- The main areas for further work and improvement:
  - Interaction between accurate delineation of the transaction and the benefit test
  - Definition of “expected benefit”
  - Additional guidance to differentiate between service and shareholder activities for activities performed by senior management and centralised services
  - Additional guidance to distinguish between intangibles and services
  - Allocation of costs under the indirect charging method
  - Documentation requirements and interactions with deductibility
  - Updated examples covering digital, and AI-enabled services, specifying that service outputs should not be automatically recharacterised as transfers of intangibles

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Public consultation – Comments from region

- Main themes from Eastern Europe commentators:
  - Key commentators: AC Crowe Ukraine (Ukraine), Saldo Zrt. (Hungary), Piotr Wierzejski ACCA (Poland), Crowe EMEA (Joint Submission), Transfer Pricing Center Association (Poland).
  - Key Themes:
    - Recognition of intra-group services as legitimate business models
    - Practical apportionment of mixed cost centers & governance activities
    - Expected vs. unrealised benefits
    - Safeguards against double-charging & duplicate remuneration
    - Selection and flexibility of allocation keys
    - Materially and relevant of documentation requirements

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Public consultation – Next steps

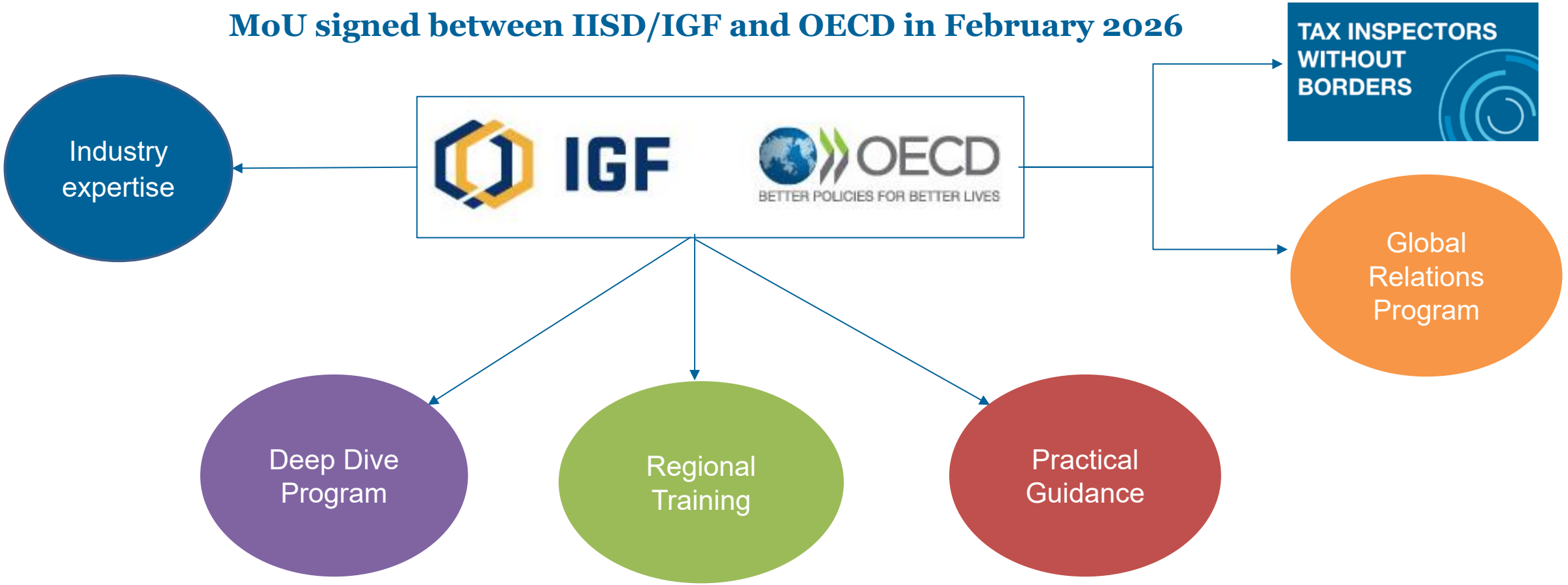
- A meeting to discuss the outcomes of the public consultation will be held on 9 November 2026 at the OECD Conference Centre, Paris, France - **Further information is available here**.
- Working Party 6 meeting will be held following the public consultation to discuss the comments and action any relevant changes.
- Final guidance is anticipated to be released in early 2028, when it will be incorporated into the OECD TPG. Prior to this tax administrations and taxpayers should continue to used and rely on the 2022 version of the OECD TPG and **not** the public consultation draft.

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UPDATE ON ONGOING WORK ON THE TAXATION OF THE EXTRACTIVE SECTOR

BEPS IN MINING PROGRAM

MoU signed between IISD/IGF and OECD in February 2026



Webpage - www.oecd.org/en/about/programmes/beps-in-mining.html

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BILATERAL DEEP-DIVE PROGRAM

- The deep-dive program provides tailored one-on-one support to resource rich developing countries.
- Focus areas - capacity building, legal and policy advice, and audit.

Recent highlights:

- **Guinea** – quantifying the impact of the bauxite reference price and assistance on the new Simandou iron ore project.
- **PNG** – assistance focusing on the implementation of the CGT regime, GMT, and TIWB cases (extractives and forestry).
- **Mongolia** – in-person mission training 50 auditors on the lessons learnt from the TIWB program and broader assistance on law reform and administration.
- **Peru and Ecuador** – focusing on Offshore Indirect Transfers, APAs in mining and TIWB program on mining (Ecuador only)





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RECENT IMPACT STUDIES

- **PNG** – Unlocking Mining Revenues: Papua New Guinea introduces capital gains tax on extractives
  - Introduction of a Capital Gains Tax regime for extractive assets
  - Support on audits with the forestry and extractives with TIWB experts
- **Zambia** – Boosting Zambia's Mining Revenue Through Tax Audits, Transfer Pricing Legislation and License Valuation
  - USD 58 million in mining corporate income tax revenue
  - USD 6 million in property transfer tax
  - USD 6 million in export tax revenue from manganese ore
- **Ecuador** – Ensuring Fair Revenue Collection from Ecuador's Growing Mining Sector - Intergovernmental Forum on Mining
  - USD 19.7million in immediate withholding tax payments
  - USD 1.7 mill in additional tax from one mining audit
  - Amendments to the mining code to limit allowable quality thresholds
- **Central Asia Impact stories** - Tax and Development Case Studies | OECD
  - Georgia
  - Kazakhstan
  - Mongolia

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REGIONAL TRAINING PROGRAM

- Deliver capacity building to resource rich developing countries on key international tax risks in the extractive sector.
- 8 module course of key BEPS related risks along the extractive value chain – delivered to 3 regions: Africa, LAC and Asia Pacific.
- **Recent highlights:**
  - Conducted an in-person training workshop for Asia Pacific in June 2025 in partnership with ADB and IGF. 38 participants attended from 20 countries with another 37 attending online.
  - In-person training event for LAC occurred in May 2026 at the OECD MTC in Mexico City in partnership with IGF, CIAT and GIZ. 36 participants attended from 14 countries.
  - A virtual training course was completed for Africa between July – Sept 2025 and 2026 with around 290 participants attending from 40 countries each year.
  - Finalised the extractives training course on the OECD Academy – 19 hours of context and currently have over 3300 participants registered





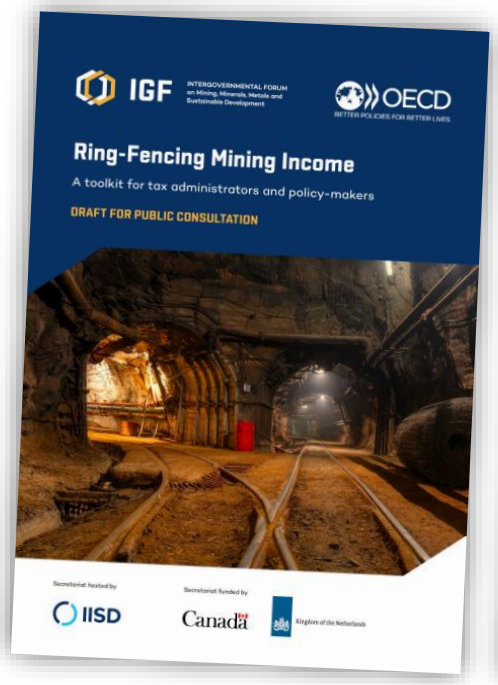
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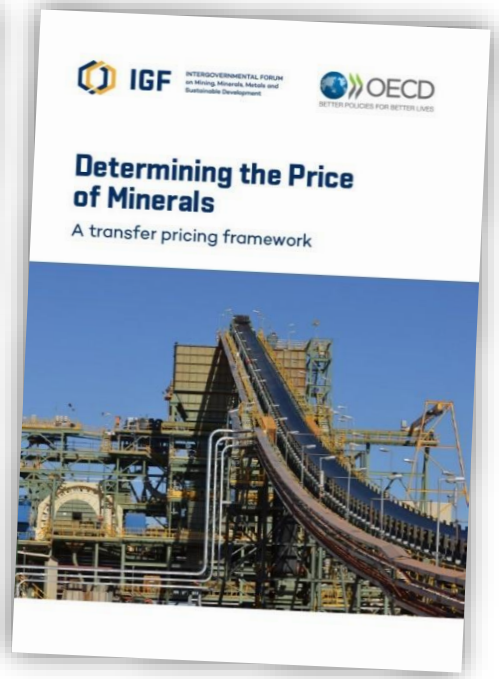
PRACTICAL WRITTEN GUIDANCE

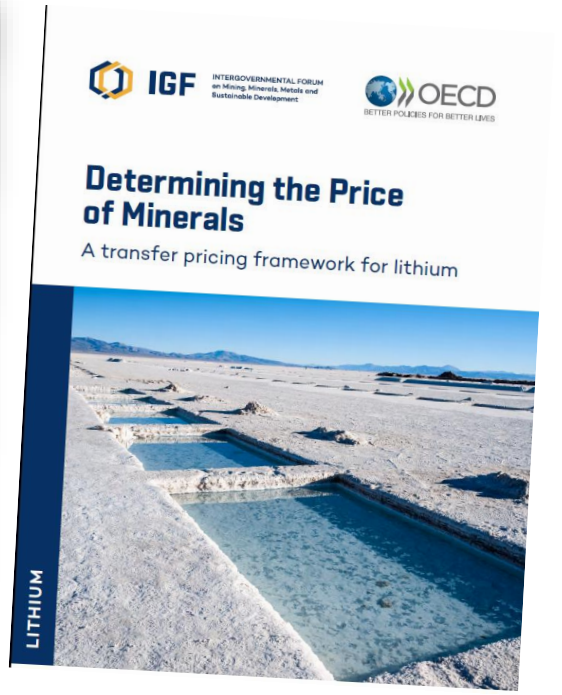
- Develop written guidance regarding common BEPS related challenges that resource rich developing countries experience:
- **Recent highlights**:
  - **Ringfencing Toolkit –** Published in July 2025. A toolkit focusing on ringfencing of mining income - what ring-fencing means in the context of mining taxation, the advantages of adopting ring-fencing rules, and how to mitigate potential challenges. Ring-Fencing Mining Income (EN)
  - **Lithium pricing toolkit** – Published in August 2024. The toolkit focuses on pricing lithium products using transfer pricing principles - Determining the Price of Minerals | OECD
  - **Copper pricing toolkit –** Public consultation ended in 2025. The toolkit focuses on pricing copper using transfer pricing principles. To be published shortly – this month.
- **Upcoming publications:**
  - **Offshore Indirect Transfers –** Finalising a toolkit on Offshore Indirect Transfers specific for the extractive sector.
  - **Marketing Hub toolkit –** Working on a toolkit to address the tax challenges associated with interposed marketing entities that earn non-arm's length profits.

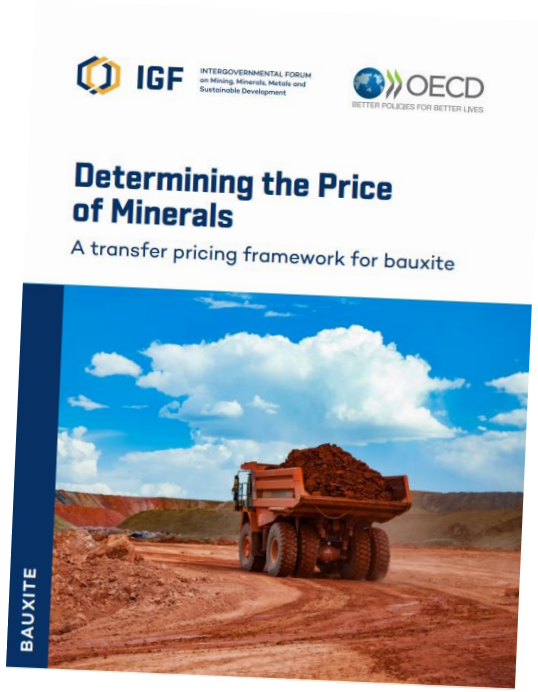
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RECENT PUBLICATIONS









IGF OECD BETTER POLICIES FOR BETTER LIVES

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CRITICAL RAW MINERALS (CRM)

- **Centralised OECD approach to CRM** - Horizontal transversal project centralises the OECD work regarding critical raw minerals.
- **Specific projects associated with CRM:**
  - **Central Asia** - Specific project for Central Asia and CRM – 2 missions in 2025 (KG and UZ) with a mission to KZ in March 2026.
    - A dedicated chapter on tax policy and BEPS risks for CRM in Central Asia.
    - Presented the findings at Eurasia week in Feb 2026 and a workshop in Astana (KZ) in March 2026.
    - Report is available here - Enhancing Resilience Through Traceability | OECD
  - **Lobito Corridor** – developed a chapter on tax policy associated with the Lobito Corridor project (Zambia, DRC and Angola), including ways in which the countries can collaborate.
  - **Traceability** – developed specific tax policy advice for Argentina and Chile on lithium and Indonesia and the Philippines on nickel regarding the traceability of the minerals along the mining value chain – publication is available Enhancing Resilience Through Traceability | OECD

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QUESTIONS?